

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:08-cv-00085-BR

L. K., a Minor, by and through his
surrogate parent, Melissa Henderson,

Plaintiff,

v.

NORTH CAROLINA STATE BOARD OF
EDUCATION and the NORTH
CAROLINA DEPARTMENT OF PUBLIC
INSTRUCTION,

Defendants.

ORDER

This matter is before the court on the 18 February 2011 Memorandum and Recommendation (“M&R”) of Magistrate Judge James E. Gates, regarding (1) defendants’ motion to dismiss for lack of subject matter jurisdiction based on mootness and (2) the parties’ cross-motions for summary judgment. No party has filed objections to the M&R, and the time within which to do so has expired. The court hereby ADOPTS the well-reasoned M&R as its own, and for the reasons stated therein, it is hereby ORDERED that:

1. defendants’ motion to dismiss is ALLOWED;
2. the 19 September 2007 manifestation determination, the administrative law judge’s decision of 29 November 2007, and the state review officer’s decision of 31 December 2007 are VACATED;
3. the cross-motions for summary judgment are DENIED as MOOT; and

4. this case is DISMISSED as MOOT.

This 9 March 2011.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge